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October 29, 1985

Ralph T. Milstead, Colonel  
Director  
Arizona Department of Public Safety  
2310 North 20th Avenue  
P. O. Box 6638  
Phoenix, Arizona 85005

Re: I85-116 (R85-137)

Dear Mr. Milstead:

In your letter of September 27, 1985, you requested an opinion on the following questions:

- (1) Is a County or City Public Defender's Office a "criminal justice agency" within the meaning of A.R.S. § 41-1750 and thereby authorized to receive criminal history record information?
- (2) Is a private law firm performing public defender work pursuant to contract with a court a "criminal justice agency" within the meaning of A.R.S. § 41-1750 and thereby authorized to receive criminal history record information?

The answer to both questions is "no."

In reaching this conclusion it is necessary to look to the definitional section of Chapter 12 of Title 41. A.R.S. § 41-1701(3) provides:

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"Criminal justice agency" means courts or a government agency or any subunit thereof which performs any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.

(Emphasis added.) Assuming arguendo that a Public Defender's Office, or a private law firm performing contract defense work, might constitute a "subunit" of a government agency, it would nevertheless fail to fall within the definition of "criminal justice agency." This is so because the "activity" performed by defense counsel does not fall within any of the categories of activities set forth in the statute.

Sincerely,



ROBERT K. CORBIN  
Attorney General

BC:BS:gm